

CHARTER

City of Damascus, Clackamas County, Oregon

We, the voters of the City of Damascus, Clackamas County, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

Names and Boundaries

Section 1. Title. This charter may be referred to as the 2005 City of Damascus Charter.

Section 2. Name. The City of Damascus, Clackamas County, Oregon, continues as a municipal corporation with the name City of Damascus.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. The city will maintain as a public record an accurate and current description of the boundaries.

Chapter II

Powers

Section 4. Powers. The city shall have all powers that the constitution, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

Section 5. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 6. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters.

(a) Any change to the general laws of the State of Oregon regarding the processes for the use of initiative, referendum and recall by city voters shall not be valid, unless such change has been proposed by initiative petition and approved by a majority of the voters in a general election. *(Approved by the voters at the November 4, 2008 election)*

(b) The qualified voter signature percentages required to propose a city initiative, a referendum or a recall shall not exceed the respective percentage requirements set forth in the Oregon Constitution for statewide initiative, referendum and recall. *(Approved by the voters at the November 4, 2008 election)*

This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.

Chapter III

Council

Section 7. Council. The council consists of a mayor and six (6) councilors nominated and elected from the city at large. The council shall receive no compensation other than reimbursement for expenses of attending meetings and other city functions.

Section 8. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority. With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

Section 9. Council President. At its first meeting each odd numbered year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 10. Rules. The council must by resolution adopt rules to govern its meetings. Where possible, the rules adopted by the Council shall provide for public involvement in Council proceedings.

Section 11. Meetings. The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with the rules.

Section 12. Quorum. A majority of the council members is a quorum to conduct business. Council members may attend via telephonic conference call or other means of conferencing and be considered present; providing all members of the

Council and the public attending the meeting can reasonably hear the member's voice and conversely that the Council member attending by conferencing can reasonably hear the proceedings. A smaller number may meet and compel the attendance of absent members as prescribed by council rules.

Section 13. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 14. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV

Legislative Authority

Section 15. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Damascus ordains as follows:".

Section 16. Ordinance Adoption.

(a) Except as authorized by subsection (b), adoption of an ordinance requires approval by a majority of the council at two meetings.

(b) The council may adopt an ordinance at a single meeting by unanimous approval of all council members present provided the proposed ordinance is available to the public at least one week before the meeting.

(c) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts the ordinance at the meeting.

(d) After adoption of an ordinance, the vote of each member must be entered into the council minutes.

(e) After adoption of an ordinance, the city custodian of records must endorse it with the date of adoption and the custodian's name and title.

(f) Except as authorized by sub Section (b), adoption of an ordinance requires approval by a majority of the council at two meetings. After January 1, 2006, any such ordinance, resolution or order approved by a majority of the City Council which creates or increases any tax, charge or fee, the ordinance shall not be effective unless ratified by a majority vote of the City's qualified electors voting in an election where at least 50 percent of the registered voters cast a ballot, or the

election is a general election in an even-numbered year. (Note: Section 16 (f) was approved by the voters at the March 11, 2008 election.)

Section 17. Effective Date of Ordinances.

(a) Ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

(b) An ordinance containing an emergency clause must receive unanimous approval of all council members present at the meeting at which it is adopted.

Chapter V

Administrative Authority

Section 18. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions shall state "The City of Damascus resolves as follows:".

Section 19. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision may be approved by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 20. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution or decision.

Chapter VI

Quasi-Judicial Authority

Section 21. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders shall state "The City of Damascus orders as follows:".

Section 22. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision may be approved by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered into the council minutes.

(d) After approval of an order, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 23. Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order or decision.

Chapter VII

Elections

Section 24. Councilors.

(a) The term of a councilor in office when this charter is adopted is the term of office for which the councilor was elected. At each general election after the adoption, three councilors will be elected for four year terms. The councilor position added by adoption of this Charter shall be first filled at the next general election for a term of two years and thereafter for a term of four years.

(b) Councilors shall be assigned numbered positions, one through six. A person seeking office on the council shall specify which councilor position they are seeking by number. A person may run for no more than a single council position during any one election.

Section 25. Mayor. At every general election after the adoption of this charter, a mayor will be elected for a term of two years.

Section 26. State Elections Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices shall be nonpartisan.

Section 27. Qualifications.

- (a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before the election or appointment to office.
- (b) No person may be a candidate at a single election for more than one city office.
- (c) Neither the mayor nor a councilor may be employed by the city.
- (d) The council is the final judge of the election and qualifications of its members.

Section 28. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

Section 29. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes office.

Section 30. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of Oregon and the United States.

Section 31. Vacancies. The mayor or council office becomes vacant:

- (a) Upon the incumbent's
 - (1) Death,
 - (2) Adjudicated incompetence, or
 - (3) Recall from the office.
- (b) Upon declaration by the council after the incumbent's:
 - (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
 - (2) Absence from the city for 30 days without council consent, or from all council meetings within a 60-day period,
 - (3) Ceasing to reside in the city,
 - (4) Ceasing to be a qualified elector under state law,
 - (5) Conviction of a public offense punishable by loss of liberty,
 - (6) Resignation from office, or
 - (7) Removal under Section 33(h).

Section 32. Filling Vacancies. A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members. The appointee's

term of office runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a council member from attending council meetings or a member is absent from the city, a majority of the council may appoint a councilor pro tem.

Chapter VIII

Appointive Officers

Section 33. City Manager.

(a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.

(b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

(c) The manager need not reside in the city at the time of appointment.

(d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

(e) The manager must:

- (1) Attend all council meetings unless excused by the mayor or council;
- (2) Make reports and recommendations to the mayor and council about the needs of the city;
- (3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;
- (4) Appoint, supervise and remove city employees;
- (5) Organize city departments and administrative structure;
- (6) Prepare and administer the annual city budget;
- (7) Administer city utilities and property;
- (8) Encourage and support regional and intergovernmental cooperation;
- (9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
- (10) Perform other duties as directed by the council;
- (11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The manager has no authority over the council or over judicial functions of the municipal judge.

(g) When the manager is temporarily disabled from acting as manager or when the office of manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(h) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to the city business.

Section 34. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:

- (1) Render judgments and impose sanctions on persons and property;
- (2) Order the arrest of anyone accused of an offense against the city;
- (3) Commit to jail or admit to bail anyone accused of a city offense;
- (4) Issue and compel obedience to subpoenas;
- (5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
- (6) Penalize contempt of court;
- (7) Issue processes necessary to enforce judgments and orders of the court;
- (8) Issue search warrants; and
- (9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Section 35. Other Officers. The council may, by ordinance, establish other city officers and provide for their appointment. The Council may designate any appointive officer to supervise any other appointive officer, except the Municipal Judge in the exercise of judicial functions.

Chapter IX

Public Improvements

Section 36. Procedure. The council may by ordinance or resolution provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for six months upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 37. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

Chapter X

Miscellaneous Provisions

Section 38. Citizen Rights. It shall be the intent of the city that every individual shall have an equal opportunity to participate fully in the life of the City.

Section 39. Debt. City bonded indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 40. Ordinance and Resolution Continuation. All ordinances and resolutions consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 41. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 42. Time of Effect. This charter takes effect upon adoption by the voters.

Section 43. Interim Quorum Requirement. Until the first council meeting of the year immediately after the 2006 general election, a quorum of the council shall be at least three members.

Chapter XI

Property Rights

Section 44. Property Rights. (a) After January 1, 2006, the City may not enact, approve or acquiesce to any land use regulation which limits or prohibits the right to use, divide, possess, sell or improve any private property in such manner as will diminish the fair market value of that property without full monetary compensation of the property owner by the City for the amount of the diminution in fair market value resulting from enactment of the land use regulation. This provision shall not apply to any regulation adopted to protect public health or safety or to limit or prohibit a use of property recognized to be a criminal activity or a nuisance under common law or to any land use regulation required by state or federal law.

(b) A property owner shall have a cause of action in any court of competent jurisdiction to recover monetary compensation, including reasonable attorney fees incurred in the prosecution of the action, and/or receive other appropriate equitable remedies for a violation of this chapter.

(c) Except as provided in this section, any private real property condemned by the City may not be conveyed to another private party without offering the original owner, or the heirs of the original owner, the right to repurchase the property for no more than the original condemnation value, adjusted for inflation of no more than 3% per year, or the real market value, whichever is less.

(d) When private real property is condemned by the City because (a) it constitutes a danger to the health or safety of the community, (b) or because of dilapidated structures or insufficient water or sanitary facilities, (c) or any combination of these factors apply, then the repurchase price established in Section 1 shall also include the actual cost of correcting the deficiencies listed in this section.

(NOTE: Chapter XI was approved by the voters at the March 11, 2008 election.)